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Canada. Railways, Canals and Telegraph Lines,
" Standing Order on 1950

SESSION 1950

HOUSE OF COMMONS

Government
Publications

CA1

XC14

-R11

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES)

MINUTES OF PROCEEDINGS AND EVIDENCE [7 reports]

No. 6

BILL No. 153

(Letter J-4 of the Senate)

"AN ACT TO AMEND THE AERONAUTICS ACT"

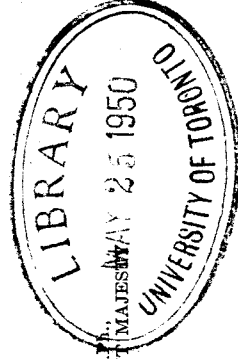
TUESDAY, MAY 16, 1950

WITNESSES:

Mr. J. R. Baldwin, Chairman, Air Transport Board;
Mr. W. J. Matthews, Director of Administration and Legal Services,
Department of Transport;
Mr. W. M. Fleming, Civil Aviation Division, Department of Transport.

OTTAWA

EDMOND CLOUTIER, C.M.G., B.A., LL.B.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
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ORDERS OF REFERENCE

THURSDAY, 11th May, 1950.

Ordered,—That the following Bill be referred to the said Committee, viz:

Bill No. 153, (Letter J-4 of the Senate), intituled: "An Act to amend the Aeronautics Act".

WEDNESDAY, 17th May, 1950.

Ordered,—That the quorum of the said Committee be reduced from 20 to 14 members and that paragraph (b), Section 1 of Standing Order 63 be suspended in relation thereto.

Attest.

LEON J. RAYMOND,
Clerk of the House.

MINUTES OF PROCEEDINGS

TUESDAY, May 16th, 1950.

The Standing Committee on Railways, Canals and Telegraph Lines met at 11:00 o'clock a.m. The Chairman, Mr. L. O. Breithaupt, presided.

Members present: Messrs. Adamson, Applewhaite, Bonnier, Breithaupt, Byrne, Carroll, Carter, Chevrier, Douglas, Garland, Gibson (*Comox-Alberni*), Goode, Gourd (*Chapleau*), Green, Harrison, Herridge, James, Jones, Lennard, McCulloch, McIvor, Mott, Murray (*Cariboo*), Prudham, Robinson, Rooney, Smith (*Calgary West*), Stuart (*Charlotte*), Ward, Whiteside, Wylie.

In attendance: Mr. J. R. Baldwin, Chairman, Mr. A. S. McDonald, Legal Adviser, Air Transport Board; Mr. W. J. Matthews, Director, Administration and Legal Services, Mr. F. T. Collins, Executive Assistant and Secretary, and Mr. M. M. Fleming, Civil Aviation Division, of the Department of Transport.

The Committee considered Bill 153 (J-4 of the Senate) intituled: "An Act to amend the Aeronautics Act."

Hon. Lionel Chevrier, a Member of the Committee, gave a brief outline of the said Bill and answered questions in respect thereof.

Mr. Baldwin, Chairman of the Air Transport Board, was called. The witness was assisted by Mr. Fleming.

Clauses 1 and 2 were agreed to.

At 1:05 p.m., the Committee adjourned to meet again at 4:00 o'clock p.m.

AFTERNOON SITTING

The Committee resumed at 4:00 o'clock p.m. The Chairman, Mr. L. O. Breithaupt, presided.

Members present: Messrs. Adamson, Applewhaite, Bonnier, Breithaupt, Byrne, Carroll, Carter, Chevrier, Douglas, Ferguson, Garland, Goode, Gourd (*Chapleau*), Green, Harrison, James, Lennard, McCulloch, McIvor, Mott, Murray (*Cariboo*), Prudham, Richard (*St. Maurice-Lafleche*), Robinson, Rooney, Stuart (*Charlotte*), Thomas, Whiteside, Wylie.

In attendance: The same officials as are listed at the morning sitting.

On motion of Mr. Murray,

Resolved,— That the Committee recommend to the House that its quorum be reduced from 20 to 14 members.

The Committee resumed clause by clause consideration of Bill 153 (J-4 of the Senate), intituled: "An Act to amend the Aeronautics Act".

Messrs. Baldwin, Matthews and Fleming were examined.

On clause 3

Mr. Green moved: "That the said Bill be amended by deleting therefrom paragraph 6 of Clause 3".

And the question having been put on the said proposed amendment it was resolved in the negative.

The said clause was agreed to.

Clauses 4, 5, 6, 7, 8, 9 and 10 were agreed to.

The preamble and the title were agreed to and the Bill ordered to be reported to the House without amendment.

At 5:00 o'clock p.m., the Committee adjourned to the call of the Chair.

ANTOINE CHASSE,
Clerk of the Committee.

REPORTS TO THE HOUSE

(The Fifth Report, dated May 8, tabled the evidence taken in relation to Bills Nos. 88 (Letter J of the Senate), 7 and 9)

SIXTH REPORT

WEDNESDAY, May 17, 1950.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as its

SIXTH REPORT

Your Committee has considered Bill No. 153 (J-4 of the Senate), intituled: "An Act to amend the Aeronautics Act" and has agreed to report same without amendment.

A copy of the evidence in relation to the said Bill is tabled herewith.

All of which is respectfully submitted.

L. O. BREITHAUPT,
Chairman.

WEDNESDAY, May 17, 1950.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as its

SEVENTH REPORT

Your Committee recommends that its quorum be reduced from 20 to 14 members and that paragraph (b), Section 1 of Standing Order 63 be suspended in relation thereto.

All of which is respectfully submitted.

L. O. BREITHAUPT,
Chairman.

*(The said report was concurred
in on the same day.)*

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

TUESDAY, May 16, 1950.

The Standing Committee on Railways, Canals and Telegraph Lines met at 11 a.m. The Chairman, Mr. L. O. Breithaupt, presided.

The CHAIRMAN: Gentlemen, we have a quorum. We will proceed to a consideration of Senate Bill J-4, the House bill number will be 153, An Act to amend the Aeronautics Act. We have with us the Minister of Transport under whose department this matter comes, and if it is agreeable to the members of the committee I would ask the minister to make a statement in connection with the objectives and purposes of this bill.

Hon. Mr. CHEVRIER: Mr. Chairman and gentlemen, there is not very much I need say at this stage. The members of this committee I am sure have read or taken part in the discussion in the House last week.

The Aeronautics Act is divided into three parts; part I has to do with the duty, obligations and responsibilities of the minister, and certain powers concerning the making of regulations; part II deals more particularly with the duties and responsibilities of the Air Transport Board; and part III has to do with administrative matters, superannuation and the like.

This bill does not involve any substantial changes in the Aeronautics Act. Most of the changes have to do with phraseology, except in one or two instances. These have become necessary because of the rapid development of aviation, and it was felt by the departmental officials and by the Board that because of rapid changes consequent amendments should be made to the Act. The first three sections of this bill are changes affecting part I of the Aeronautics Act. The remaining sections, 4 to the end of the bill, deal with amendments to part II of the Act. Perhaps the principal changes have to do with the fact that because of international routes and international services it is necessary to pass legislation authorizing regulations that will affect aircraft and air services outside the jurisdiction of our own country. Then, as members will notice as we go along, there are changes which affect the phraseology of the Act, changes which have to do with penalties and so on.

I do not think I need say anything more at this stage. If it is the wish of the committee to hear witnesses there are officials here to explain the clauses as we go along.

Mr. GIBSON: Would the minister say whether representations have been received from any foreign organizations?

Hon. Mr. CHEVRIER: With reference to this bill?

Mr. GIBSON: Yes.

Hon. Mr. CHEVRIER: None whatever.

Mr. GIBSON: Would they have an opportunity of appearing before the committee should they so desire?

Hon. Mr. CHEVRIER: I am informed by the chairman of the Air Transport Board that before the Senate committee representatives of AITA, that is the Air Industries and Transport Association of Canada, appeared and said that they did not want to make any representations.

Mr. APPLEWHAITE: Does this bill involve any changes in regulations dealing with non-scheduled foreign aircraft coming into Canada?

Hon. Mr. CHEVRIER: It does not deal with that directly. First, with reference to the last part, there is a definition of hire or reward because of certain legal difficulties which have arisen, and while the powers of the minister and of the Board are not increased they are better defined so that there will be no overlapping between the powers of the department and those of the Air Transport Board; but I think in fact the answer to your question is no.

The CHAIRMAN: I imagine that the answers to any other questions will come out as we proceed with the bill.

Mr. GREEN: Mr. Chairman, I wonder if it would be possible to have a statement from the Chairman of the Air Transport Board setting out the functions of that Board. Most of these amendments deal with the operation of the Act which sets up the Air Transport Board and it would be very helpful if we could have a statement from the Chairman of the Board. I would also like to know whether it would be possible to have some explanation as to just what is done now about these external routes. I am not quite clear as to who handles these negotiations, whether it is External Affairs or the Department of Transport or who. What is the procedure followed in order to authorize a foreign company to fly into Canada or a Canadian company to fly beyond Canada? The question raised by Mr. Applewhaite is very important. As I understand it he was asking about the non-scheduled flying aircraft flying into the country, and in view of the announcement made by the Minister of National Defence the other day in the House about the Americans having some new restrictions on foreign planes going into their country I think perhaps it would be within the scope of our authority to find out just how this is done. For example, suppose a Russian plane flies into Canada, what department has to do with that? I think we should know whether it comes under the Department of Defence or whether it comes under the Department of Transport, and if Transport just how is it handled, what permission do they have to get and what provision there is for these planes.

Hon. Mr. CHEVRIER: Did you want to ask a question, Mr. Herridge?

Mr. HERRIDGE: I just wanted to say that I support Mr. Green's statement; I think we should have a statement from the Chairman of the Air Transport Board.

The CHAIRMAN: That would be quite satisfactory.

Hon. Mr. CHEVRIER: There are some questions here which, if the committee will allow me, I would like to deal with. The Chairman of the Air Transport Board and counsel for the department are both here and can add to or possibly correct any information which I might give to you now. Referring to the last question, there is a section which indirectly will deal with that, and perhaps I can leave any remarks that I have to make on that matter until we get to that section. It does not deal with the matter directly but it does deal with it indirectly. It has been suggested that there should be a statement about the functions and the powers of the Air Transport Board. I said a moment ago that part II of the Aeronautics Act deals particularly with the work of the Air Transport Board which was set up pursuant to that part of the Aeronautics Act when it was amended by George VI, Chapter 28, 1944. There are three members of the Air Transport Board and the functions of the Board, as stated in the House the other day, are both regulatory and advisory. In its regulatory capacity the Board has jurisdiction over economic aspects of commercial aviation and as such deals with the second question raised by Mr. Green. Under section 11 of the Aeronautics Act the Board makes regulations regarding commercial air services. Under section 9 of the Aeronautics Act the Board has power to make investigations and surveys and to inquire whether the traffic

would be sufficient in certain areas to warrant additional licences to domestic or other carriers. Under section 10 the Board makes recommendations to the minister after having conducted investigations and may advise the minister in all matters relating to civil aviation. Under section 12 the Board may issue, after having listened to the arguments both for and against applications, a licence to operate a commercial air service. Under section 12 the Board is obligated to issue certain licences to T.C.A. in accordance with procedures under the Trans-Canada Air Lines Act. Under section 17 it is stated that the powers of the Board shall be exercised subject to any international air agreement, and in practice this involves preliminary discussions by the Air Transport Board with other Canadian government agencies relating to international air services into Canada where such is concerned; second, the licensing of foreign air carriers designated by a foreign government under a bilateral air agreement, and subsequently a certain degree of responsibility respecting operations, tolls and the operation of international air routes. All such matters are the subject of negotiation between Canada and the other country concerned and that part of it is taken care of by the Department of External Affairs.

Mr. GREEN: Who asks for that? They would not ask for it just out of a clear sky, they would not start negotiations for an air route on their own?

Hon. Mr. CHEVRIER: No. Representations are made by the country seeking air routes into Canada, or by Canada when seeking air routes into any other country.

Mr. GREEN: Who would institute the negotiations between Canada and the other country concerned?

Hon. Mr. CHEVRIER: It would be the minister of Transport. For instance, if we sought a route into the United States we would take the initiative in asking the Department of External Affairs to make it possible to discuss with the American authorities certain routes for Canada; if the government of France desired to have Air France proceed by way of certain Canadian routes, France would take it up with External Affairs which would consult my officials.

Mr. GREEN: You would not negotiate directly with them?

Hon. Mr. CHEVRIER: The Department of External Affairs have a representative on the delegations which negotiate these international routes. Such was the case in the United Kingdom agreement and such was the case in negotiations which led up to the signing of the bilateral agreement between Canada and the United States. But I was going on to say that the Air Transport Board takes a very important part in that. It makes a survey, it examines and prepares the material and makes recommendations to the minister after having gone into the economic aspects of the matter; and following that the government decides whether or not it would be advisable to seek or grant further international air routes. That in principle is the procedure we now follow in circumstances such as we have been discussing.

Mr. GREEN: Is it not an international organization?

Hon. Mr. CHEVRIER: There is the International Civil Aviation Organization which represents all the nations of the world to which we adhere. They have their headquarters in Montreal and they have international obligations and functions and I should add that there are one or two notable absences in its membership.

Mr. ADAMSON: But ICAO have no executive power, they are purely advisory in the international field?

Hon. Mr. CHEVRIER: They have the same powers as any other special organization of the United Nations. ICAO is a specialized agency of the United Nations Organization and has all the powers that were given to it by the International Convention which established it.

Mr. ADAMSON: Yes, but there is no way in which ICAO can take away routes?

Hon. Mr. CHEVRIER: No, not the slightest.

Mr. ROONEY: Is Russia represented on that board?

Hon. Mr. CHEVRIER: No, Russia is not a member of ICAO.

The CHAIRMAN: Gentlemen, may I suggest that the minister be allowed to complete his statement.

Mr. CHEVRIER: I do not have much more to add. Perhaps the committee would like to know that the licences which are granted by the Air Transport Board may roughly be divided into two groups, the domestic and the international; and they again may be broken down as follows; domestic air carriers may be scheduled air carriers, that is they travel according to a schedule—Montreal-Toronto-Vancouver and so forth like T. C. A.—non-scheduled air carriers which go from one point to another without a schedule; charter air services; contract air carriers established for a specific task; charitable air carriers and specialty air carriers; and in the foreign group there are two categories, scheduled air carriers, such as the U.S. lines that we have operating into Canada, and non-scheduled air carriers. I think for the purposes of this bill that is about all I can tell the committee at the moment unless there are some additional questions.

Mr. GREEN: What is the position now with regard to air freedoms? In 1944 the government laid down its policy, gave its views with regard to an international air agreement. As I understand it it has never been possible to get all the nations to agree to the policy which Canada favoured at that time. Are we still making these agreements purely on a bilateral basis, that is between Canada and individual countries rather than having them made under multilateral agreements?

Hon. Mr. CHEVRIER: Yes. The policy which was advocated by Canada at Chicago was a policy based on multilateral agreement. Canada had hoped that it would be possible to get those nations that were interested in air services to come to some agreement in a multilateral document. Unfortunately, that was not possible. Since then we have been driven to the signing of bilateral agreements and have signed several such agreements, but our general practice is not to enter upon those agreements unless we are seeking something for Canada.

Mr. GREEN: What is that?

Hon. Mr. CHEVRIER: Unless we are seeking something and by that I mean unless we are seeking traffic rights for Canada. For instance, we sought certain rights for C.P.A. on the west coast to Australia and to the Orient. We did get certain traffic rights from the British and from the Americans and we entered into bilateral air agreements. But we have been very careful about fifth freedom rights; we are very jealous of fifth freedom rights and they have been granted only in cases such as those I have mentioned.

Mr. GREEN: Will the minister tell us what that fifth freedom right is?

Hon. Mr. CHEVRIER: Well, as the committee know, there are five freedoms. I do not know whether I can remember them all. The first is the right to fly over a country; the second is the right to come down in a country for refueling purposes; the third is the right to set down passengers from the country of origin of service; the fourth is the right to pick up passengers for that country, and the fifth is the right to carry passengers to and from intermediate points; and that is a right which countries guard jealously. As a rule there is never any difficulty about third and fourth freedom traffic. For instance, traffic from Canada to the United Kingdom generally goes by a Canadian or U. K. air carrier and service is direct between terminal points. In the case of the United Kingdom we have the right also to take on fifth freedom at Ireland and in the Azores; and we have fifth freedom rights also with reference to certain points on the Caribbean route and in the United States.

Mr. MURRAY: Would the minister tell us what arrangements have been made with General MacArthur in Japan for the Canadian Pacific Air Line planes there? Have any facilities been provided? I would like to know whether the landing fields on the Aleutians are being abandoned.

Hon. Mr. CHEVRIER: With reference to the last question I did make a statement in the House some time ago and I repeated it again during the course of this discussion, that it was the intention of the Defence Department of the United States to abandon the bases in the Aleutian Islands and that negotiations were being entered into with the Americans for Canadian Pacific Air Lines on a mid-Pacific route. There have been no changes, I think, since then. The Aleutian bases still are in operation and I have not reviewed the position in the last week or so but I think it is about the same as it was before. With reference to the first question, I think perhaps I would ask Mr. Baldwin to deal with it because it is a more complicated question.

Mr. J. R. Baldwin, Chairman of the Air Transport Board, called:

The WITNESS: Canadian Pacific Air Lines have been granted full traffic rights in Tokyo by the supreme allied commander there. They are now operating in and out of Tokyo with full traffic rights, and they have also been granted the right to use Okinawa on the same basis. With regard to the question of Shemya, the main base in the Aleutians, the policy in the United States is still somewhat uncertain but there are now indications it will not be closed in the immediate future as had been contemplated originally and it may be kept open for some longer time with the decision in abeyance as to whether it will ultimately be closed.

By Mr. Murray:

Q. Has General MacArthur extended every courtesy to the Canadian Pacific Air Lines?—A. In every respect.

Q. And very cordially?—A. Yes, very cordially.

Mr. LENNARD: There is one question I want to ask. I have a case in mind where a Trans-Canada Air Lines plane was flying from the west and they ran into air trouble from storms and they went south over the United States; one of the passengers became mentally ill and my understanding is that they were denied the right to land this passenger in the United States for hospitalization and were forced to come to Windsor before they could land this passenger. Would that be correct?

Hon. Mr. CHEVRIER: I would not know. That is a matter that would not directly concern the Air Transport Board, it is a matter that would concern customs and immigration. I could enquire for you but it is not a matter over which we would have any jurisdiction.

Mr. GREEN: I wonder if we could have from Mr. Baldwin a statement in regard to the method in which the Air Transport Board functions. I understand he is chairman of that board.

The CHAIRMAN: The minister covered most of that, but if you would like to have it amplified—

Hon. Mr. CHEVRIER: Perhaps Mr. Baldwin should add to or complete any statement that I made.

The WITNESS: I do not know, Mr. Green, that there is a great deal that I can add to what the minister has already said. The board under the minister is responsible for the granting of licences or refusal of licences, as the case may be, to commercial air services. It is also responsible for general economic regulation and economic relationships between commercial air services and for

such general aviation matters as the minister wishes the board to report upon or offer advice upon. For example, as he mentioned, the board advises the minister with regard to the course that might be followed in international negotiations and upon occasion assists the minister by participation in such negotiations. Apart from that I should also add it is responsible on behalf of the government for taking care of the policy matters in connection with our part in the International Civil Aviation Organization, and the Canadian representative on the council of I.C.A.O. is a member of the board staff.

If there are any details regarding the actual procedures which we follow I would be glad to give them.

By Mr. Smith:

Q. Who are the members of the board?—A. The other members are Mr. Romeo Vachon, and Mr. A. D. McLean, former controller of civil aviation who was appointed within the last couple of weeks.

Q. Are they permanent?—A. They are appointed for a term of ten years.

By Mr. Green:

Q. Dealing with these different jobs that you do, how do you carry on your work in the licensing of various companies?—A. The regulations of the board which are approved by the Governor in Council, as indicated by the minister, set up various categories of services. The board has issued a directive which describes the form in which applications should be made and information which needs to be supplied. Carriers submit a formal application for a service to the board. This is reviewed by the board's staff, the audit division, the rate sections, the bureau of transportation economics, the licensing division, who then make their general report to the board and the application normally, is then publicly advertised for a stated period to allow representations from any public party interested to be made to the board. At the end of the period of advertising the board determines on the basis of its knowledge of the applicant and any public representations which may be received whether or not a public hearing is required, following which the board renders a decision.

Q. When you render a decision is that published by yourselves and a licence issued, or do you merely recommend it to the minister?—A. The board's decision is signed by the board members and if it is an affirmative decision it is submitted to the minister for his approval; if he approves the decision he signs it and the board then issues a licence to the carrier. In the event of a denial of an application that is, under the statute, may be taken care of by the board itself without submission to the minister, but with the right of appeal on the part of the carrier to the minister.

Q. I see. So that if an application is granted to make a recommendation and then that has to be approved by the Minister of Transport?—A. That is correct.

Q. And, subject to that approval, you issue the licence?—A. That is correct.

Q. And if the application is denied there is no recommendation made by the board to the minister but the applicant has the right of appeal to the minister?—A. The applicant has the right of appeal to the minister.

Q. Is that appeal to the minister or to the cabinet?—A. To the minister.

Q. You said that your second duty had something to do with general economic regulations. What do you mean by that? I do not quite understand what you said there.—A. Control of the tariff arrangements. All carriers, at least the majority, are required to file tariffs with the board which may either accept them for filing or disapprove them or require a change to be made. We also deal with the general policy which is followed in the matter of competitive relationships between the carriers quite apart from the actual licences granted. In other words to what extent a given class of carriers should be allowed to com-

pete among themselves and to what extent they should be granted a measure of protection and things of that sort which are taken care of by particular directives or particular orders. Then our duties involve as well, as the minister mentioned, economic reviews of the condition of the air carriers and the traffic potential in Canada generally or in specific instances.

Q. Are your decisions in this field also subject to review by the minister?—

A. Decisions in the matter of rate control are normally matters that the board carries on as an independent administrative function. If a matter involves considerations of major policy which would have a bearing on government policy generally it would be submitted to the minister for consideration whether in the field of rate control or any other field.

Q. Is there any appeal from your decision on rates to the minister?—A. Not so provided in the Act, but there is a general appeal under the Act to the Supreme Court of Canada on questions of jurisdiction or of law.

Mr McIvor: Mr. Chairman, I would just like to give a concrete example of the fairness with which this board does its work. We had a group of young veterans who put their gratuities into an airplane enterprise. I knew these boys very well and I just want to pay my tribute to the chairman of the board and the board for their very fair play in not allowing the big shots to put it over a bunch of boys.

By Mr. Smith:

Q. Let us take a concrete illustration, take the city of Calgary; let us assume that you have licensed two or more organizations to carry out, let us say, an operation to Crow's Nest Pass or some place like that, operating to those towns. Now, is your answer this, that as between those two or more companies you fix their rates both for freight and for passengers?—A. The net effect may be the same, sir, though I would describe it in slightly different words: it would not be possible for the board to attempt to fix every tariff in the air field since they number in the thousands. Generally the procedure that is followed, which is also the procedure followed in the railways, is that the carriers themselves decide on the tariffs they wish to put into effect, they submit them to the board for filing and if they are accepted for filing they go into effect. In cases where there appears to be some discrepancy which requires an explanation, we investigate further and if we are dissatisfied, there may be discussions with the carrier in an attempt to adjust the matter satisfactorily.

Q. In a nutshell, it means this, that if carrier A decides he can carry freight we will say at so much a hundred pounds between Calgary and Penticton, say, does your authority go so far as to say that if one organization reduces this rate that you could then put it back again? I mean, what about competition; are you eliminating that?—A. Sir, the answer to that question is that we would have the statutory authority if we wished to exercise it but I would not contemplate the board exercising such authority in that particular instance so long as we were satisfied that the reduction of rate was on a reasonable and just basis and non-discriminatory as far as treatment of the public was concerned.

Q. I do not know what you mean by that. I know that in railway rates, for example, the railway files its tariff and then that tariff is approved by the board, but I know of no reason why a railway cannot give me a rate from one place to the other on such goods as I care to ship. Is that true with you? For example, would it be a breach of regulations if a company carried goods at less than the approved tariff rate? Would that be an offence?—A. That would be an offence under the regulations. The charges they are supposed to make and must make are the charges which are officially filed for public inspection with the Air Transport Board. If they wish to offer reduced rates they must file a tariff providing for such reductions.

Q. In other words this tariff becomes a fixed thing which the carrier may not raise, nor may he lessen that tariff without the approval of the board. —A. That is correct; that is the same procedure that is followed by the Board of Transport Commissioners.

Q. I would rather we did not get into a discussion on the Board of Transport Commissioners and railway rates because there are so many different things applying to the Board of Transport Commissioners and railway freight that do not apply to air freight.

But what I am getting at is a situation like this: that a tariff having been filed and approved, the carrier, if he varies from that tariff without your permission, is then guilty of an offence against regulations?—A. That is correct, sir.

Hon. Mr. CHEVRIER: Is not the position the same with reference to the freight rates?

Mr. SMITH: Frankly, I do not think so but I am very far from being certain. For example, using Calgary again, as an example we cannot increase rates, but I think we can make an arrangement with the railway company for some other rate than the tariff rates in moving something.

Hon. Mr. CHEVRIER: Yes, that is so but that must be in a certain category. My understanding is that the tariffs filed by the railway companies are so huge, as you say, that it is hard to take a specific example, but they are broken into categories and in that particular category you may reduce without reference to the board.

Mr. SMITH: You mean different classes, first, second, third, fourth and fifth class freight?

Hon. Mr. CHEVRIER: Yes, I used the wrong word—different classes.

By Mr. Smith:

Q. What the minister says I have no doubt is correct because he is so close to this thing. The point I am trying to get at is this: is the effect, or might the effect of the powers which the board has, operate to eliminate, and it does eliminate, competition in rates entirely? Is that not what has happened or might happen?—A. It is not my view, sir, that that is the effect of rate regulation by the board, because there is no barrier to adjustments by a carrier, of his rates. It can be done with the consent of the board. The only thing that we require is that the board's consent be obtained in order to insure that it is non-discriminatory in its treatment of the public. In other words, if he wishes to have a special arrangement to deal with Mr. X, it must be that the public generally under a comparable situation would be able to take advantage of similar special arrangements and that no discrimination shall take place.

Q. All right, let us take one commodity, let us say fruit, which is produced in Penticton. Now in the shipment of fruit from Penticton, we will say, fresh fruit, berries, and that sort of thing into Calgary—I believe there is a lot of fresh fruit shipped by air, is there not?—A. Not a great deal, sir.

Q. On the Canadian Pacific Lines?—A. There is a certain amount but the volume is not large.

Q. All right, let us assume a traffic of that kind. You are in the position, if you wish, to say to a corporation: we are not going to let you carry that cheap. You have that power?—A. We have that authority.

Q. In other words, you can say to the corporation that in your judgment if they do that they will go broke or something of that kind. In other words, in so far as these rates on carrying fruit are concerned—we will leave out passengers—the board has complete authority with respect to rates which these carriers will operate under?—A. That is correct, sir.

Q. And from judgments of that kind there is no appeal except to the Supreme Court of Canada, is that it?—A. That is correct.

Q. Thank you very much.

By Mr. Murray:

Q. Mr. Chairman, might I ask in the extension of airways from Prince George to the west if the Air Transport Board would consider applications for a service from Prince George through to Vanderhoof or Prince Rupert? There is a territory there that requires air service.—A. There is presently an application before the board for an extension of services in that general area. It is now being publicly advertised. Presumably after the period of advertising a public hearing will be held, but the advertising period has not yet ended.

Mr. GIBSON: Could the minister tell me if the Board of Transport Commissioners regulates the division of postal traffic between the Canadian Pacific Railway and the Canadian National Railways and, if they do, what like function is exercised by the Air Transport Board?

Hon. Mr. CHEVRIER: The Board of Transport Commissioners does not regulate postal traffic between one railway and another. As a matter of fact it has no jurisdiction over it.

Mr. GIBSON: I am just wondering who makes the division there because evidently, in fact, it works out to be a pretty even division.

Hon. Mr. CHEVRIER: The post office does.

By Mr. Gibson:

Q. I am just wondering what the policy is in connection with air mail because after all there is a great discrepancy between one airline and another as to how much postal traffic is given to them in the way of air mail. I was wondering if the Air Transport Board takes that into consideration. That is an important point in operating an airline.—A. The matter of air mail carriage is entirely in the jurisdiction of the postmaster general who makes such arrangements as he wishes with individual carriers. The Post Office may upon occasion consult us with regard to a proposed contract, to obtain economic data as to an operator and as to what would appear to be a reasonable rate for the work, but outside of that the Air Transport Board has no jurisdiction in that field whatsoever.

Q. Since we are amending your Act maybe we should have put something like that in there. There are some aircraft running scheduled flights where there could be a step-up of service if more air mail was granted to them. It is a difficult job for individual members of parliament to do this, and I was thinking that the Air Transport Board could take that under its jurisdiction.

By Mr. Adamson:

Q. I would like to ask Mr. Baldwin whether there are any non-scheduled foreign based aircraft operating into Canada and if so under what regulations? What I am thinking of is that in the summer during the tourist season quite a number of Americans want to fly into the northern lakes in both Ontario and Quebec and I imagine elsewhere in Canada. Has the question ever come up of American operators, operating say out of Buffalo or Rochester or even out of New York, bringing parties up into Canada and if so what regulations are there, if any?—A. The international non-scheduled field has developed almost entirely since the war. It was virtually an unknown quantity before that and it has not yet reached a stabilized position; no clear pattern has emerged. When it does I would imagine that you would find bilateral agreements covering that field as well as the scheduled field; but at the present time it is dealt with independently

by the aviation authorities of each of the countries concerned according to their domestic practice, and we in Canada require any commercial carrier—because that is all our jurisdiction applies to—which wishes to make a commercial flight into or out of Canada obtain a permit from the Board. It is a document known as a foreign carrier permit and it may cover one or a half dozen flights; but in every case it must be obtained from the Board and an operating certificate must also be obtained from the department. We have on occasion granted such permits and on occasion we have refused them on the grounds that there was a scheduled air carrier available to do the work. There are a number of instances where we have granted monthly “block” clearances to small U.S. operators—I can think of two or three of them—who make flights of the sort you have described into Canadian territory.

That at the same time has raised some of the problems referred to by Mr. Applewhaite and others with regard to such activities into Canada and we have had under discussion with the United States for the last year an informal arrangement which we hope we can work out with their aviation authorities which will establish a common procedure for dealing with this problem.

Mr. SMITH: Has anything been done about planes bringing parties into this country to get fish—

The CHAIRMAN: They hope.

Mr. SMITH: Now, Mr. Chairman, this is in Alberta. For example, I was fishing on one of the lakes in our province one time—

Some Hon. MEMBERS: Louder.

Mr. SMITH: And a plane came in and landed on the lake and we had to get out of the way. Are there any regulations as to people coming in by air for sport and landing on any lake they want to? What is the situation there?

The WITNESS: It depends on the aircraft, whether it is a private aircraft bringing in a private party or whether it is a commercial flight.

Mr. SMITH: I am thinking of a private aircraft.

The WITNESS: That does not fall within the jurisdiction of the Air Transport Board.

By Mr. Smith:

Q. You handle nothing except commercial?—A. The private aircraft falls within the jurisdiction of the Department of Transport and it would require an operating clearance; and also it would have to clear through customs and immigration; and is supposed to file a flight plan in advance. Unfortunately there has been a certain amount of abuse of the privileges granted and it is a problem of enforcement which may be the responsibility of either or both federal and provincial authorities.

Q. There are plenty of aircraft which bring parties in to get fish and moose and so on; but what I am getting at is this: where a party hires a plane to bring them in, that would not come under your department?—A. It would.

Q. Must you know beforehand where they are going and so on? Must they not file a flight plan with you so that you can know where they are going and so that you can give them a permit to land on certain lakes, let us say?—A. If it is a commercial flight they are required to make an application for a permit to us.

Q. Let us assume it is charter flight, that a plane is hired to bring a party in?—A. In such a case they do not always specify a particular lake, they may indicate a general area which they propose to go into. I may add by way of explanation that this matter has been under informal discussion between our—

selves and the operators and certain provincial authorities, which are interested from the standpoint of conservation. While these discussions have been going on for several months now they have not yet reached a point of finality.

Mr. APPLEWHAITE: I do not think there is any question that that particular branch of non-scheduled foreign services is important. I have run into it on occasion. A man may come in for sports purposes and perhaps not comply with our regulations. I would like to suggest to the chairman of the Transport Board that most serious and sympathetic consideration should be given to increasing the non-scheduled international services. I am referring at the moment particularly to the country contiguous to Alaska which is dependent almost entirely on aviation for any form of transportation. My recollection is that if you follow the regulations, and you want to make a non-scheduled commercial service from Alaska across the line into British Columbia you have five different government departments to contact in Ottawa: Transport, Immigration, National Revenue, Health, and Finance, because of foreign exchange. I know of instances—I am not going to elaborate on them—where it has taken five days to clear a flight, a flight which is intended to be made by air instead of waiting for a boat. Where we have a condition as regards business and industry as well sometimes as a matter of health or convenience, international aircraft is essential. I would suggest that you remember that foreign automobiles may come into this country, and we welcome them; we are just interested in seeing that they get out sooner or later. But aviation is here to stay and we are going to have a lot more of it. It seems to me, with great respect, that we are not meeting the situation in connection with aviation in a modern spirit. I know there are difficulties in aviation that are not experienced in other cases, and that national safety has got to be borne in mind, but I do suggest that if a millionaire is welcomed and helped along when he comes into Canada in his Packard that we should not put tremendous difficulties in his way because he happens to come in by plane. As the minister, I am afraid, well knows, the matter has been the source of great irritation and difficulty, particularly in the hinterland, in the outlying parts of the country where they are particularly dependent on aviation. I notice at the bottom of page 1 of the explanatory notes, that the amendment is intended to include all matters relating to commercial air services. I suggest that the department and the Transport Board try to modernize their thinking so that it will not be any more difficult to bring a foreign plane into this country than it is to bring in a foreign ship; and I hope soon that it will be just as easy to bring in a plane as it is to bring in a foreign car.

Mr. MURRAY: May I add to what has been said by Mr. Applewhaite. We have flights coming in from probably as far away as Texas up into Alaska, the Yukon Territory and northern British Columbia; usually big game hunters, geologists and people of that kind, and some of them are just out for a holiday. They come in their planes and they land on these lakes and they hire pack trains and guides and so forth and go away back into the hills where they are bothering nobody, it is all a wilderness, and they get some fine specimens of big game—sheep, big Rocky Mountain goats, and one thing and another. As Mr. Applewhaite has said, there seems to be a barrier against them, and it is discouraging rather than encouraging them to come in. Some of these parties spend as much as \$5,000 or \$6,000 in these small towns.

Mr. ADAMSON: Mr. Chairman, I would like to add one word on the subject. I have in mind a small air service operating at the Banff National Park by a fellow by the name of Al Gaetz. He is providing a service in that park absolutely unobtainable anywhere else and I know something of the great difficulty he had with the Air Transport Board because his is a non-scheduled flight where there are no routes at all. I would just like to say this, that with

that service he has opened up a great part of Banff National Park, particularly to the winter tourists, the skiers, who would find it absolutely impossible to get to those places where they want to go without that air service. I am thinking particularly of the country around Mount Assiniboine, where conditions are particularly good for skiing. I do hope that you will give sympathetic consideration to this type of service because of the great benefit it gives; and, while expressing that hope, I realize the difficulties that are involved not only with respect to your department but with the National Parks Department.

The WITNESS: Speaking on the last point first, Mr. Adamson, my understanding is that the difficulty there is one primarily relating to parks supervision, and is largely a matter of policy on the part of the parks administration. On the more general question of non-scheduled flights from the United States into Canada we are confronted with the problem of trying to reconcile several objectives, one of which is the desirability of having authorizations whether for private aircraft or commercial services to come into Canada. They are spending money here which benefits the tourist industry. At the same time there is a desire on the part of operators in Canada, which I think may be justified, to have a certain amount of protection against that type of service; and at the same time you have parties coming in by air and landing on some remote lake and dynamiting it and taking fish out. No doubt you have that in mind.

Mr. ADAMSON: Yes.

The WITNESS: You also have the problem of the general cost of such services in the United States being substantially lower with respect to the small operator than it is here. If you permit the United States operators to come in here on a commercial basis without any restriction, it may have the effect of driving a substantial number of small Canadian operators out of business completely. We have to try to work out a balance.

In the matter of the co-ordination of departmental requirements, it is quite true that there are several departments that have to be consulted because of their statutory requirements. We have done our best as far as the Air Transport Board is concerned to set up a system of co-ordination which has as its aim simplifying the procedure for foreign carriers. As things stand at the present time there are some five departments involved. What we try to do is facilitate their clearance with the other departments in obtaining a permit with as little delay and inconvenience as possible.

Now then, with respect to the flights into Alaska and the Yukon Territories, we have recognized for some time that a special situation exists there and part of our discussions with the United States have been designed to try to formulate a relatively liberal policy to apply in that particular area and to help the needs for air traffic to be effectively met in that area. One of the reasons we have had such prolonged discussions with the United States about this matter was because we have a reasonably liberal policy, but United States procedures for dealing with Canadian operators have been very difficult and have not created the reciprocity which the Canadian operator needs. In that connection our view is that the Canadian operator should have similar privileges granted to him with respect to operating into American territory. Then, too, you referred to the situation along the Alcan Highway. That, as you know, is a special one arising out of the fact that the northwest air route is under military control.

Mr. ADAMSON: What can you tell me about this? Suppose you have an aircraft which is going in there and is dynamiting the lakes and taking fish out, or is smuggling or in some other way breaking the law, that is hostile to the general welfare of the country; what do you do, how do you track that down, how do you stop them, and what sort of policy, if any, have you got in that regard?

The WITNESS: If it falls within the category you first mentioned, that of dynamiting lakes, that is a conservation problem and the provincial authorities are responsible for that and they do their best to keep track of it; but it is admittedly difficult because of the flexibility of aircraft, and while some of the provinces have very fine air services others are not so well equipped. In so far as the federal interests are concerned federal enforcement normally is taken care of by the R.C.M.P., and while they do not have any substantial number of aircraft—they do not maintain a fleet of aircraft—they do have a small number, and if the trouble is substantial they arrange for some commercial aircraft to take them in to the trouble centre, so that they can find out what is going on.

The CHAIRMAN: Now, gentlemen, I do not want to curtail the questioning in any way but I think we have had a pretty good wide open discussion.

Mr. GREEN: Well, Mr. Chairman, there are some other matters in which I am interested.

By Mr. Green:

Q. What is the policy of the Board with regard to the control of competition? I understand that you are pretty strict about lines competing on routes. Does that mean that you decide that one line shall have a monopoly on a route; or, just what does it mean?—A. The policy of the government, as you will recollect, was laid down some time ago to the effect that not more than one "scheduled" air line, to make that distinction, should operate on any one route, and the Board has operated within the framework of that general policy in that where we have found that public convenience and necessity require the provision of a scheduled air service only one operator is licensed to perform that service. That does not mean, however, that you may not have competition within the schedule field itself because services may be provided between two points over different routes by two different carriers. In the Calgary-Vancouver situation, which is probably the best example that I could give you, we have T.C.A. operating a direct service between Calgary and Vancouver and the Canadian Pacific airlines provide a service by way of intermediate points such as Cranbrook and between the same two cities. Perhaps another good example is the service between Vancouver and Victoria where you have the T.C.A. providing the direct service and the Queen Charlotte Air Lines service operating by way of Nanaimo, which is not a very direct route; and you will find similar situations elsewhere within Canada. That is the position in regard to the scheduled field.

When you come to the non-scheduled field the policy is somewhat different. We use our discretion in granting to what we call class two routes which are services on an irregular basis following a regular route pattern. Normally speaking we have only had one carrier on a class two route for the simple reason that we have followed the philosophy which governed the decision regarding scheduled operators. The factor which governs in a situation of this kind is the potential traffic which exists in Canada, and generally it has not been sufficient to justify putting on more than one carrier; otherwise neither would have a chance to succeed. There have been a few cases where we have had to put in more than one class two carrier on some routes. Then the charter operators who do not operate over specified routes may fly over scheduled routes between scheduled points in some instances but not in others. I can give you the details of that policy, if necessary. They have also been granted protection at their own bases. I may say also that this system was put into effect at their own request after lengthy discussions with the Air Industries and Transport Association so that a carrier who has a charter base has the primary right to traffic out of that base. Where two charter carriers have the same base they have equal rights to the traffic out of that base.

Q. What control does the Board have over Trans-Canada Air Lines?—A. The Board is required to grant licences to Trans-Canada Air Lines in accordance with contracts that may be approved between the government and Trans-Canada Air Lines. That having been done, Trans-Canada Air Lines comes within the general rate jurisdiction of the Board; and as far as direct control in regard to their licensing goes we exercise no independent jurisdiction. We may be called upon to advise the government with regard to a proposed T.C.A. service, but once a contract is authorized by the government then we are required by statute to grant a licence.

Q. In effect then the operations of T.C.A. are outside of your scope and you have to issue permits for them to fly a route if they apply for it?—A. Except in so far as the period during which the route is being discussed in the first instance is concerned; that is, before the government reaches a decision to operate a certain route; and the practice is that the Board is called upon to advise the government as to whether it is a route which the government should designate for operation by T.C.A.

Q. And the T.C.A. routes are designated by the government?—A. That is correct.

Q. And once that has been done the Board has no jurisdiction?—A. The situation is virtually the same as when an international agreement authorizing routes is made. In the first instance our role is advisory and in negotiating, but once the decision is made by the government we carry it out.

Q. Which means that you really have no licensing authority in the international field, you act only in an advisory capacity?—A. That is correct, sir.

Q. You said also that one of your functions was to advise; what does the Board do in the way of getting new companies into the aviation field or in getting individuals to start new services? When the Board was set up in 1944 they were told that would be one of their functions, they were to be responsible directly, or to give a lead in supporting civil aviation in Canada. Does it function in that way, and if so, how?—A. We do our best, sir, to encourage existing operators or independent groups to provide services. We have certain of our staff working on general and specific investigations of that kind all the time, for instance, we have recently completed and released a study on secondary services in southern Ontario.

Q. I wonder if you could tell us how the development of potential routes is working out. Do you decide whether there should be new flights established?—A. Within the limits of our staff we do our best in that field.

Q. What areas in Canada are there which in the opinion of the Board should have air services which do not have them at the present time; are you giving consideration to that?—A. Well, sir, our map shows that Canada is pretty well covered by air service. It is not so much a case of providing new coverage as it is of improving or extending the coverage which already exists; that is replacing class 3 services by class 2 and class 2 by class 1.

By Mr. Adamson:

Q. From what has been said I gather that you exercise control over rates. Now, I am interested in this; the rates between the metropolitan areas of eastern Canada and to the Pacific coast, and let us say from Canada crossing to the American side and going to the same destination, appear to be governed by identical rates; that is, that the all-Canadian route charges about the same rate as the comparable American carrier would charge, and that seems to be the case irrespective of what route is involved as between central point and central point. Does the Air Transport Board fix those rates?—A. That is done partially by the Air Transport Board and partially as a result of international agreement. You see, the situation is one based on competition. From one eastern Canadian point to another Canadian point let us say on the west coast, the rates over such

a route would have to be competitive with the rate between those points by way of the United States. Those rates are determined really by competitive factors.

Q. Now, I would like to ask a question about safety regulations. How are they enforced on Canadian aircraft and United States aircraft, and what machinery have you for that purpose? I think it would be useful to have a statement from you with respect to safety regulations.—A. That is a matter which comes under the jurisdiction of the Department of Transport rather than under the Air Transport Board, but the general procedure is that any carrier whether foreign or domestic before it is permitted to operate must obtain, in addition to its licence, an operating certificate from the Department of Transport for Air and that department before granting such an operating certificate examines in considerable detail the air worthiness of the aircraft, the competence of the operating personnel and the ground facilities available. That is done whether it is a foreign or Canadian firm.

Q. And that check is made by the Department of Transport?—A. That is correct.

Q. And it is done regularly?—A. That is correct.

The CHAIRMAN: Well, gentlemen, I think we have been on this line of general questioning long enough now; shall we turn to the bill and take it up clause by clause?

Mr. GREEN: I have one or two more questions I would like to ask, if I may.

The CHAIRMAN: Go ahead.

By Mr. Green:

Q. Does the Air Transport Board file an annual report of its operations? I have in mind, for instance, the type of report that is filed by the Department of Transport; and I was wondering if you make a report of a similar nature. I think it would be very helpful to the committee to have such a report.—A. Do you mean do we table such a report in parliament, sir?

Q. Yes, an annual report.—A. We make no annual report. No statutory requirement was placed upon the Air Transport Board to make an annual report.

Mr. GREEN: Might I ask the minister about that? Is there any objection to having this Board file a report each year? I do not know whether the Board of Transport Commissioners do it or not but I think they do. Without such a report I do not see how members of the House or the public generally are going to be able to appreciate the work done by the Air Transport Board and I think it would be very helpful to the public and all concerned if such a report could be filed so that we could all have the full facts with regard to the administration and control of civil aviation in Canada.

Hon. Mr. CHEVRIER: I do not know whether there is any objection; I would have to give that matter some consideration. It means additional staff to prepare a report of that nature.

Mr. GREEN: How much additional staff?

Hon. Mr. CHEVRIER: I do not know, I would have to give it some consideration.

The CHAIRMAN: Are we ready to consider the bill clause by clause? Shall clause 1 carry?

1. Section two of the Aeronautics Act, chapter three of the Revised Statutes of Canada, 1927, as enacted by section two of chapter twenty-eight of the statutes of 1944-45, is repealed and the following substituted therefor:

"2. In this Part, 'Minister' means the Minister of Transport or such other Minister as the Governor in Council may from time to time designate, except that in any matter relating to defence, 'Minister' means the Minister of National Defence."

Mr. GREEN: Will the minister explain just how the Department of National Defence fits into this picture?

Hon. Mr. CHEVRIER: The Department of National Defence does not fit into the picture in any large measure. It did originally. The minister means the Minister of Transport or such other minister as the Governor in Council may designate, except that in any matter relating to defence, minister means the Minister of National Defence.

Mr. GREEN: Would you say what matters come under the Minister of National Defence in this Act? What is the division of authority between the Minister of Transport and the Minister of National Defence?

Hon. Mr. CHEVRIER: Well, there are certain airports in the country that come directly under the Minister of National Defence. We have had some discussion from time to time on that; the Minister of National Defence exercises control over these airports.

Mr. GREEN: In the case of those airports would the Air Transport Board have any authority?

Hon. Mr. CHEVRIER: No.

Mr. GREEN: The Minister of National Defence has the complete authority?

Hon. Mr. CHEVRIER: Yes.

Mr. GREEN: And has the Air Transport Board or the Minister of Transport any authority whatever in connection with military aircraft either Canadian or foreign?

Hon. Mr. CHEVRIER: No.

The CHAIRMAN: Shall the clause carry?

Carried.

Clause 2.

2. (1) Paragraph (b) of section three of the said Act is repealed and the following substituted therefor:

(b) to undertake, and to co-operate with persons undertaking, such projects, technical research, study or investigation as in his opinion will promote the development of aeronautics in Canada;

(2) Paragraph (h) of the said section three of the said Act is repealed and the following substituted therefor:

(h) to take such action as may be necessary to secure, by international regulation or otherwise, the rights of His Majesty in respect of His Government of Canada, in international air traffic;

(3) Paragraph (k) of the said section three of the said Act is repealed and the following substituted therefor:

(k) to investigate, examine and report on the operation and development of commercial air services within or partly within Canada or the limits of the territorial waters of Canada;

(4) Paragraph (l) of the said section three of the said Act is repealed and the following substituted therefor:

(l) to consider, draft and prepare for approval by the Governor in Council such regulations as may be considered necessary for the control or operation of aeronautics in Canada or within the limits of the territorial waters of Canada and for the control or operation of aircraft registered in Canada wherever such aircraft may be; and

Mr. GREEN: Will the minister explain clause 2? It sets out here that it is intended to include the increasingly important field of non-scheduled international services.

Hon. Mr. CHEVRIER: That is not a material change; it is a change in phraseology; it is one of those clauses I referred to earlier. The emphasis is being shifted now in the amendment from study to undertaking and cooperating with persons undertaking such projects, technical research, and the like. Earlier, the minister had the power to study development of aeronautics. We have advanced somewhat further and the intention now is to shift from study to undertaking and cooperating with persons with reference to projects, technical research, investigation and the like.

Mr. GREEN: This section is amending the powers of the minister.

Hon. Mr. CHEVRIER: That is right.

Mr. ADAMSON: It would be under this section that would come the dealings in such cases as that of the Colonial Air Lines Montreal to New York, would it not?

Hon. Mr. CHEVRIER: No, the question of Colonial would come up in part 2. I think that is all I need to say, it would come under part 2.

Mr. ADAMSON: Of this Act?

Hon. Mr. CHEVRIER: Yes.

Mr. ADAMSON: I just wondered because you have in paragraph 2 of the present Act:—

To take such action as may be necessary to secure, by international regulation or otherwise, the rights of His Majesty in respect of His Government of Canada, in international air routes;

You mean paragraph 2 of the Act itself?

Hon. Mr. CHEVRIER: No, if you are dealing now with the other section, the intention of changing the words "international air routes" to "international air traffic" is to give a wider scope to the board and the minister in so far as international flying is concerned.

Mr. GREEN: I notice this amendment is intended to include the increasingly important field of non-scheduled international air services. What is the policy with regard to these non-scheduled international air services? Can the minister give us a brief summary of the government policy with regard to these services?

Hon. Mr. CHEVRIER: Well, I do not think that would be easy; as was explained a moment ago there is a well-established policy with reference to scheduled services.

The CHAIRMAN: Mr. Murray, I was wondering if you could stay with us for a while longer.

Mr. MURRAY: I had the pleasure to introduce a motion which would reduce the number of members required to make a quorum from twenty to twelve; at a later date I will re-introduce that motion.

The CHAIRMAN: Thank you very much.

Hon. Mr. CHEVRIER: The amendment in the first case is to change the words international air routes to international air traffic because the word traffic is a broader concept than the word route and the object of the other amendment is to change:

to investigate, examine and report on all proposals for the institution of commercial air services—

That is being changed to read operation and development instead of proposals, which gives a broader field to the minister.

Mr. GREEN: I was asking about the policy with regard to these non-scheduled international air services. Mr. Baldwin said that is a new problem you have to meet and I was wondering if there is a government policy on that?

Hon. Mr. CHEVRIER: There is no final policy at the moment and I think that gradually when we meet with applications from international non-scheduled services we will evolve one.

The CHAIRMAN: Shall clause 2 carry?

Carried.

Clause 3, powers of the minister.

3 (1) That portion of subsection one of section four of the said Act that precedes paragraph (a) thereof is repealed and the following substituted therefor:

4 (1) Subject to the approval of the Governor in Council, the Minister may make regulations to control and regulate air navigation over Canada and the territorial waters of Canada and the conditions under which aircraft registered in Canada may be operated over the high seas or any territory not within Canada, and, without restricting the generality of the foregoing, may make regulations with respect to

(2) Paragraph (d) of the said subsection one of section four of the said Act, as enacted by section three of chapter twenty-eight of the statutes of 1944-45, is repealed and the following substituted therefor:

(d) the conditions under which aircraft may be used or operated;

(3) Paragraph (e) of the said subsection one of section four of the said Act is repealed and the following substituted therefor:

(e) the conditions under which goods, mails and passengers may be transported in aircraft and under which any act may be performed in or from aircraft or under which aircraft may be employed;

(4) Paragraph (i) of the said subsection one of section four of the said Act is repealed and the following substituted therefor:

(i) the institution and enforcement of such laws, rules and regulations as may be deemed necessary for the safe and proper navigation of aircraft in Canada or within the limits of the territorial waters of Canada and of aircraft registered in Canada wherever such aircraft may be; and

(5) Paragraph (j) of the said subsection one of section four of the said Act is repealed.

(6) Subsection two of section four of the said Act is repealed and the following substituted therefor:

(2) Any regulation made under subsection one may authorize the Minister to make orders or directions with respect to such matters coming within this section as the regulations may prescribe.

(7) Section four of the said Act is further amended by adding thereto the following subsection:

(3) Every person who violates the provisions of a regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding one year or to both fine and imprisonment.

Mr. GREEN: In the explanatory notes under paragraph 4, you say this amendment is intended to provide for the extension of control of Canadian registered aircraft beyond Canadian territorial limits.

What troubles have arisen in that connection, and in what way are those planes flying beyond Canada to be controlled? As I understand it, that does not apply to Trans-Canada Air lines at all.

Hon Mr. CHEVRIER: Oh, yes, it applies.

Perhaps the technical end might better be explained by one of the officers, but this change will apply not only to this section but to other sections of this bill. The point is that jurisdiction under the Act as it now stands relates to the territory of Canada and it is felt because of international arrangements and otherwise that Canadian aircraft and the services should always be governed by Canadian law, should be governed by Canadian regulations, should be governed by Canadian rates, and the intention is to give powers for control over operation of aircraft registered in Canada wherever such aircraft may be. That too is because of the International Convention and because of the bilateral air agreements that have been entered into between the United Kingdom and Canada and between the United States and Canada so that there will be control of Canadian aircraft and Canadian air services no matter what they are.

Mr. GREEN: Have you any control now?

Hon. Mr. CHEVRIER: Well, there is control but there is no statutory control. I suppose the question could be raised that when an aircraft is outside of Canada, Canadian laws do not apply.

The CHAIRMAN: Shall the clause carry?

Clause 3, powers of the minister to make regulations with approval of Governor in Council.

Mr. GREEN: Would the minister explain paragraph three, too?

Hon. Mr. CHEVRIER: That section deals with technical control, that is with safety standards, airworthiness, competence of operating personnel and the like, and deals with the authority of the minister to make regulations in performance of these duties. The section originally read:

Subject to approval by the Governor in Council, the minister shall have power to regulate and control aerial navigation over Canada and the territorial waters of Canada.

We propose to add:

and the conditions under which aircraft registered in Canada may be operated over the high seas or any territory not within Canada,

In other words for the reasons given a moment ago the minister will have power to make technical regulations covering Canadian aircraft outside Canada.

Mr. GREEN: The explanatory note there says:

this amendment is intended—that is referring to paragraph 2 of the new section 3—to mark clearly the application of the paragraph to the use and operation of aircraft as distinguished from the economic regulation of commercial air services.

Hon. Mr. CHEVRIER: You are referring to (d) now, the conditions under which aircraft may be used or operated.

Mr. GREEN: Why is it that that is a restriction on the powers of the Board? That is cutting down the powers of the board. Why was it necessary to do that?

Hon. Mr. CHEVRIER: The words "used or operated" in the phrase as it is presently drafted, are to distinguish between the powers of the board and the department so that there will be no duplication and no overlapping. The amendment defines the powers of the department, as distinguished from those of the board.

Mr. GREEN: It diminishes the power of the board, does it not?

The WITNESS: No, sir, that section deals with the powers of the minister and the Department of Transport; it has nothing to do with the powers of the board. The reason it is in is to prevent overlapping between the powers of the board and of the minister and the department.

Mr. ADAMSON: What machinery has the minister for this air safety work?

Hon. Mr. CHEVRIER: There is a division of the Department of Transport, the civil aviation branch. There are a number of inspectors, a number of examiners whose business it is to see that planes are airworthy before they leave; that they have the competent personnel required and the like. The regulations are made under these powers, which they follow; regulations are different in the case of international air services, domestic air services, charter air services and the like. I do not know how many men are employed but there is a substantial number.

Mr. ADAMSON: An airline is naturally jealous of its safety record particularly on a trans-Atlantic flight; the department is also, I imagine, extremely jealous of the safety of any person who flies from a Canadian airport and therefore the department would check every trans-Atlantic plane before it takes off: Would you know that? I ask this because we have such an enviable record of safety in Canada, and I thought some explanation might be useful to the committee.

Mr. FLEMING: Under the Act and regulations there is a requirement that each commercial operator be in possession of an operating certificate issued by the minister. This operating certificate is issued only when the minister is satisfied that the operator is adequately equipped and able to conduct a safe operation over the route or the area concerned, and that certificate is only granted after very detailed investigation of the procedures, the equipment, the personnel in possession of the operator, so therefore it is not necessary normally to check every flight although spot checks are made from time to time.

The CHAIRMAN: Thank you very much, Mr. Fleming.

Clause 3, para. 7, with its special clauses and paragraphs.

Mr. GREEN: On page 3, paragraph 6, which is the new section 3 of the Act in effect gives power to the minister now to make regulations. Formerly the regulations could only be made by Order in Council. This, of course, is giving the minister a greatly increased power and it looks to me as though it avoids the cabinet. Now, the ordinary way of passing regulations is by Order in Council.

Mr. CARROLL: This has reference only to the mode in which the regulations are to be carried out.

Mr. GREEN: I know, but it is a very unusual provision in the statute.

Any regulation made under subsection one may authorize the minister to make orders or directions with respect to such matters coming within this section as the regulations may prescribe.

Now, I presume that a breach of these orders would leave a person open to a penalty just in the same way as though he had broken a regulation, or it may be necessary to have special provisions. I wish the minister would explain why he cannot get along with regulations passed in the ordinary way.

The WITNESS: This refers not to the powers of the Air Transport Board but to the powers of the minister. It was felt that in aviation, which is a highly flexible and rapidly changing situation, there are occasions when special action has to be taken in this field of safety to meet an individual situation where time would not permit the procedure which is involved in the passage of an Order in Council, which may take several days. The purpose of this amendment is not to give the minister general powers of his own to make regulations but to allow him to act in special cases where rapid action is necessary to meet a given situation always within the scope of the regulations approved by the Governor in Council. It is something that is peculiarly necessary in aviation.

Mr. GREEN: Give us an example.

Mr. FLEMING: I can quote an example. There was somewhere in the regulations, I have forgotten the subsection number, a provision that an approach to land should be commenced from three thousand feet from the nearest boundary

of the airdrome. That was actually an air regulation that was passed under a blanket Order in Council. It was decided in order to facilitate air traffic control that this approach should be shortened to a thousand feet. It was then necessary to have an Order in Council passed to reduce the distance from which an approach should be commenced from three thousand feet to one thousand feet. It was for that reason this proposal was made; when I say that reason, I mean to cover instances such as the one I mentioned. There was no intentions to go beyond the scope of the regulations which had been passed by Order in Council, but rather to issue directions pursuant to such regulations.

Mr. GREEN: But, you see, Mr. Baldwin has put it on the basis of urgency, that some conditions might come up that had to be met by a change in the regulations, and they could not get that through by Order in Council and therefore the minister should have power to make a regulation quickly. Now, the result of that would be that the man who owns the airplane probably has no chance of finding out about this regulation, if it is made in a hurry like that, and therefore the whole idea of giving power to the minister, to any minister, to bring in a regulation like that, I think is very dangerous and the example that Mr. Fleming has given does not add up because it does not strengthen the argument, because that change can be covered by a change in the regulation in the ordinary way. There is no need for the minister to have power to do that without going to the cabinet. You see, the minister is given very wide power.

Mr. CARROLL: I know, but it is a regulation made by Order in Council that gives him that power.

Mr. GREEN: No, in the first paragraph of the new section 3, which is to be found on page 2, there the power is set up and that is the ordinary power given to make regulations "subject to the approval of the Governor in Council, the minister may make regulations to control and regulate air navigation over Canada".

He is given the widest possible power to make regulations subject to the approval of the cabinet. Now, they are asking in the new clause 2, for something entirely different and something which very rarely appears in a statute; I mean, this gives the Minister an additional power. He does not have to go to the cabinet. The reasons given for that by Mr. Baldwin is that there might be urgency, that the regulations had to be passed in a hurry to meet an emergent situation. Well now, I think we should give serious consideration to leaving the section as it is, giving the minister the widest powers to make regulations, subject to the approval of the cabinet. This other business of letting a minister legislate on his own means in effect that the legislation under this new section will be handled by an official in the department and some official will want to have something fixed so he can act in a hurry to meet some situation.

Mr. CARROLL: After it is set out in the Order in Council.

Mr. GREEN: No, the example given by Mr. Baldwin is where there is urgency they want to have power to make orders.

Hon. Mr. CHEVRIER: No, that is not the point at all. I think my honourable friend is not explaining it fairly. First of all, I think we should read the old Act—I think Mr. Carroll has a point that should be brought to the attention of the members—The Act reads as follows:

Subject to approval by the Governor in Council, the minister shall have power to regulate and control aerial navigation over Canada and the territorial waters of Canada, and in particular, but not to restrict the generality of the foregoing terms of this section, he may, with the approval aforesaid, make regulations with respect to—

(a), (b), (c), (d), (e), (f), and so on.

Therefore, under subsection 4(2) he already has the power to make regulations subject to the approval of the Governor in Council. All this says is that pursuant to 4(1), any regulation made in subsection 1 may authorize the minister to make orders within the scope of the regulations. The regulations which will have been made under 4 (1) will have been submitted to the Governor in Council, and under these regulations submitted and approved by the Governor in Council the minister may give orders and directions; it is not as my honourable friend states; and furthermore I am informed that this is the way it is done in other countries. In the United Kingdom there is a section similar to this.

Mr. GREEN: Can Mr. Fleming then give us some case where this is necessary. The example he gave a minute ago does not come within that category. He said they wanted this advance cut from three thousand feet to one thousand feet. Now, that could be done and should be done, of course, by an amendment of the regulations and then everybody knows what the law is. There is a chance for the other members of the cabinet to know what is going on and to bring their judgment to bear on the change. But this does away with all these safeguards. The other members of the cabinet have no chance to check it and in effect it means that somebody in the department or in the Air Transport Board will write out an order and it becomes law and people can be fined under it.

Mr. FLEMING: I may be able to answer your question by stating a theoretical situation which might occur under the air regulations or at least under new air regulations which might be written pursuant to the Act. The air traffic control would be governed by air regulations generally speaking. Now, it may well be that we are unable to anticipate all the difficulties which we might encounter with the advent of jet aircraft, and with the introduction of jet aircraft we may find a situation occur overnight which would require a change of the procedures in effect in Canada. Now, the traffic control procedures, unless they are written in an air regulation can only be issued to the flying public by way of information and therefore in order to give them some force in law they would have to be introduced either as an air regulation approved by the Governor in Council or by a directive issued pursuant to such regulations and in view of the possibility of urgent change being required overnight, I think that the minister should have power to give some force of law to a procedure which might be subject to immediate change. I hope I have made myself clear.

Mr. GREEN: Do you use directives, as you call them, under this Act now in any way?

Mr. FLEMING: At the moment sir, we have information circulars and they have not the force of law. I am afraid that has been our difficulty to date.

Mr. CARROLL: But does it not specify the things that the minister may do? It has got to be specified in the regulations.

Mr. FLEMING: But not the details, sir.

Mr. CARROLL: But I do not know the details—that is a matter of administration.

Mr. APPLEWHAITE: I think we all sympathize with the point that Mr. Green has been attempting to make, that one man should not be allowed to make laws in this country. I suggest we are a little astray because a statement has been made in this discussion that it gives the minister power to make regulations but it only gives him power to issue certain orders under these regulations. I suggest that conditions being what they are, as new conditions arise, and if they arise, the responsible department is going to issue an order or directive to meet it. It may be that they will not have any statutory authority but they are going to have to meet the situation and they are going

to tell people what it is. As I see it, this says that before that happens, the order they issue will have legal backing; the power is now given to meet that situation when it arises.

Mr. GREEN: You have no such things as directives now under which a person can be fined.

Mr. FLEMING: We have something you might call a directive but which lacks force in law. We have been forced to call it an information circular. These are for the information and guidance of the aviation public but they have no real force in law.

Mr. GREEN: You are getting into a position where you will have your regulations and in addition to that you will have directives both of which are enforceable by law; in other words, both of which for infractions provide that a person can be dragged into court and fined now \$5,000 or one year in jail; is that to be the effect?

Mr. FLEMING: I would suggest, sir, that a directive, such as it is proposed would issue on the authority of the minister would rather amplify the administrative detail of the regulations and would not be quite the same.

Mr. GREEN: But if a person commits a breach of your directive action could be taken against him in court?

Mr. FLEMING: He might be in the position of having broken a regulation.

Mr. GREEN: You are asking in the same section that the penalty be increased to \$5,000 or one year.

The CHAIRMAN: Gentlemen, it is 1 o'clock; I would suggest that we adjourn until 4 o'clock and resume our sittings at that time, if that is satisfactory.

The committee adjourned.

AFTERNOON SESSION

TUESDAY, May 16, 1950.

—The committee resumed at 4 p.m.

The CHAIRMAN: Order.

Mr. MURRAY: Mr. Chairman, I move that we reduce the number required for a quorum from 20 to 12.

The CHAIRMAN: But that was voted down before.

Mr. MURRAY: Then I move that we reduce the required number for a quorum from 20 down to 14.

The CHAIRMAN: All in favour of reducing the quorum from 20 to 14 as moved by Mr. Murray?

The CHAIRMAN: All in favour?

Carried.

I think we shall make progress.

Mr. LENNARD: There are not enough here now. I am not opposed to the motion.

The CHAIRMAN: It won't have effect today. We shall have to get the permission of the House for the next meeting.

Mr. ADAMSON: What is the quorum today, is it still 20?

The CHAIRMAN: Mr. Green, do you wish to continue? You were questioning Mr. Baldwin, I think, when we adjourned.

Mr. GREEN: Yes, Mr. Chairman.

Mr. W. J. Matthews, Counsel for the Department of Transport, called:

By Mr. Green:

Q. Is it your intention that a breach of these directives would be subject to a penalty in the same way as a breach of the regulations?

Mr. CARROLL: I think the proper gentleman to address that question to would be counsel for the organization, if they have one here.

The CHAIRMAN: I beg your pardon?

Mr. CARROLL: I think that the proper witness to address that question to would be the counsel for the organization.

The CHAIRMAN: But Mr. Matthews is here and he is counsel for the department.

Mr. CARROLL: I am only suggesting it.

The WITNESS: Would you mind repeating the question, Mr. Green.

By Mr. Green:

Q. Is it the intention that any directives, so called, issued under this new clause 2 of section 4 should have the same effect as the regulations, in that if there is a breach of these directives, there will be the same penalty as there would be in the case of a breach of the regulations?—A. I think that would have to depend on the regulations themselves. And if the regulation said that certain directives of the minister had to be complied with, then I would think that non-compliance with the directives would involve a breach of the regulations which would result in a possible prosecution. It might come back to the regulations themselves and be treated as a breach of regulations.

Q. I would think there would be no need to have directives or to have a provision for directives unless they were going to carry the same penalty; and that you would not get any further ahead by writing a provision in this Act for directives unless they are to carry the same penalty.—A. I think that would be right.

Q. So the result will be, if this section goes into the Act, that a person who breaks any term of one of these directives could be subject to a fine of \$5,000 or to one year in jail.—A. If there was a provision in the regulations that non-compliance with the directive involved a breach of the regulations, that would be right.

By Mr. Applewhaite:

Q. Would it be possible that there might be a breach of an order or a directive under this section which was not also a breach of a regulation already approved?—A. Yes, I would think so. That would depend on what the order or directive was, and unless I had a concrete example, it would be pretty difficult to say.

By Mr. Green:

Q. I can agree that a breach of the regulations must be punishable; but if this new section goes into the law, then there will be the same punishment for the lesser thing, known as a directive; yet there are not the same provisions, for example, for publication in the *Gazette*, or for the public finding out about them. So my submission is—and frankly, it is not a matter of deep concern to me one way or the other—but my submission is that where the public is to be subject to a penalty which is a very heavy penalty, then at least they are entitled to have those provisions put in the shape of regulations and not merely contained in a directive which goes around or does not go around in a letter. I do not think it is giving to the man who has to pay the fine or who has to go to jail a fair run for his money.

Mr. CARROLL: That was the question which bothered me: how these things should be promulgated. I think myself that most of these directives will not apply to the whole system; I think that something will happen let us say at an airport where a lot of people are coming in—I am not talking as an expert in aeronautics—and it may be found one morning that something happens in connection with one particular line which the regulations do not cover. So the minister would have the right under the regulations, to make some directive to apply to that particular place.

By Mr. Green:

Q. Is it the intention that these directives are merely to be the law for a short time until some terms can be written into the regulations?—A. I think generally speaking that would be correct. I think there is a similar provision in the Customs Act by which non-compliance with the order of a customs officer may bring a penalty. This kind of regulation is not new in the law.

Q. Well, the Customs Act is a little different. The Customs people have to deal, of course, with very many people. But this Act only concerns people in the aviation business. It is not an Act which deals with hundreds or thousands of people and which is administered by hundreds of officials at different points across the country. I think all the facts are brought out that I can think of. But would you be hurt very much in administering the Act if this new provision were dropped?—A. In answer I would say that Civil Aviation officials have been pressing for this section for a long time. We have had these information circulars out, but they have not had the force of law; and it was felt that it was rather futile to put these information circulars out if they did not have the force and sanction of law.

The regulations as presently written have been found to work hardship on helicopter operations, so an information circular was prepared in order to facilitate their operation by a broad interpretation of the regulations. This circular serves a useful purpose, but it has no force in law, and its provisions are open to dispute. In other words, the directions go out to the helicopter operators, but they have no sanction.

Q. Why cannot you deal with helicopters by the ordinary regulations? Why do you have to have directives instead of regulations?—A. This is a fast moving business and time is of the essence. We have to do these things quickly.

By Mr. Applewhaite:

Q. The regulations as used in the Act are passed by the Governor in Council. Is it the intention that the orders and directions under this section shall be of general application or are they orders or directions issued directly to one operator and brought to the attention of that operator, served on him, as it were, to cover one particular instance or particular situation only?—A. I think they might be both; but I think they are intended to be of general application.

Q. If they are of general application, then the objections which Mr. Green has raised are valid in my opinion.

The CHAIRMAN: Shall the section carry?

Mr. GREEN: Mr. Chairman, I would move that the section be deleted. I think it is going too far, particularly where the penalty is so great. If you were going to have two sets of penalties, with a much smaller penalty for infraction of a directive, then there might be some justification. But where you are simply taking these directives and making a person who breaks a directive subject to a year in jail, I think that is going too far.

The CHAIRMAN: We have a motion before us. Mr. Green moves that the section be deleted. Are you ready for the motion.

By Mr. Applewhaite:

Q. I am not satisfied with this thing. I am, however, quite satisfied in my own mind that the first point is well taken. Therefore, I do not think it is good practice. At the same time I am of the opinion—I know very little about aviation—but I am of the opinion that some provision should be there whereby emergency orders which would be effective can be issued in a hurry to take care of unexpected occurrences. And I was under the impression, when I first read the Act, that the use of orders and directives meant what was referred to in my last question—an order or directive to an individual operator to take care of certain cases. The department may find that it needs some such authority as there is given here. However, the answers which two witnesses have given to Mr. Green would indicate that this is a wider authority than we should put in. If the department wishes, time might be taken to re-draft and re-consider the question; I am sure Mr. Green would be agreeable and I am sure that most of the members of the committee would be agreeable as well.—A. In answer to that I think it is unlikely that any prosecutions would be made for violation of any of these ordinary directives that are issued. They are very general in their application, and really only for safety purposes. I have a book of them here if you are interested in looking them over. One reads:

0/38/39

Dangerous alighting Area—Borthwick Lake, Ont.

52° 48' N.—93° 40' W.

The above-named lake is officially reported as being unfit for the use of aircraft either on floats or skis. Pilots are, therefore, advised that the use of this lake by aircraft must be discontinued from the date of receipt of this circular.

They are safety procedures and they are given in the form of directives. I think it would be very unlikely that any prosecution would be made.

By Mr. Green:

Q. Then why put them in the Act?—A. I think it is necessary to have a sanction behind them. I do not believe that people pay very much attention to things simply put out as information circulars unless there is a sanction behind them. There are other ways it could be done. They could have their certificates suspended, or something like that.

Q. Is not that a wiser way to cover it rather than to make it the same offence as a breach of the regulations?—A. Well, the minister would have to take the responsibility of cancelling the certificates, and it is quite a big responsibility to take.

By Mr. Goode:

Q. You just mean that as a threat?—A. Yes.

Mr. BYRNE: I am not a lawyer but I do travel considerably by aircraft and it seems to me that anything which is conducive to more safety in the matter of aviation is something which we consider very important. It is true that every pilot before he can obtain a commercial licence must know every detail of the regulations. But if he finds there are certain directives coming out which do not have the force of law and which would not deprive him of his licence if there should be a breach of them, I think it is quite conceivable that he would be less careful about these regulations. I do not see anything wrong with directives or regulations having the full force of law and I do not intend to support the motion put by the hon. member for Vancouver-Quadra.

Mr. FERGUSON: If a man breaks the terms of the directives of the department, has the department the right to suspend his licence? Take the case of fining reckless drivers.

The Hon. Mr. CHEVRIER: The power is contained in section 4 (a) as it stands today. But if you suspend a licence, you should know what happens. There would be a great cry and great objection to doing so; whereas in this case all that is being sought is an order under a regulation which would be made by virtue of the section.

Mr. FERGUSON: There is not much outcry when a reckless driver's licence is suspended.

The Hon. Mr. CHEVRIER: My friend had better go and practise law because when he gets into court he will find there is no greater complaint being made by people than those who feel that the law is too severe and too harsh in that respect.

Mr. FERGUSON: I do not think it is necessary to practise law in order to hear the squawking of reckless drivers; yet in most cases they have been tried by a court which is used to that class of case and justice has been meted out, and their licence is suspended. This is the same sort of case where a licence should be suspended. They might go to the minister and ask to get their licences back. But nevertheless they would not get their licences back if the court has decided that they should not have them. There are wealthy men who will pay a fine of \$50 and laugh about it. It is the suspension of the driver's permit which keeps them from exceeding the speed limit in many cases.

The Hon. Mr. CHEVRIER: I do not think you can put the motor car in the same position as an aircraft.

Mr. FERGUSON: A man will not pay heed to a directive from a department.

The Hon. Mr. CHEVRIER: We are discussing far more than that at the moment. That is only incidental.

The CHAIRMAN: We are discussing section 3 subsection 6, and Mr. Green has moved that the clause be deleted. I think we are ready for the motion.

Mr. GREEN: Mr. Chairman, as the minister has pointed out, there is power given to him under 4 (a) to have a regulation put through subject to approval by the Governor in Council which gives the minister the power to suspend and revoke the licence.

Mr. CARROLL: The Canadian licences.

Mr. GREEN: It is broad—"any licence". I suppose the way to meet this situation is for the minister to have a regulation put through giving him the power to suspend a licence for a certain time, or to deal with it in some other way if those people do not comply with the special directives. Then you would have a type of punishment which would not go so far out of line.

The Hon. Mr. CHEVRIER: That power is there already.

Mr. GREEN: I know. You have got that power now. You are asking to issue directives for the breach of which a person may be put in jail for a year.

By Mr. Applewhaite:

Q. I think we are still not right on this thing in the way we are discussing it. There are regulations which are general and which are promulgated by the Governor in Council; and then there are directives issued in the name of the minister. A sample of them has been given in that a certain lake is not safe to land on or to take off from. You will find similar things in marine law where you are notified that certain lights have been removed and that it is not safe to enter a certain harbour at night. Mr. Green fears that we are putting the general public in a position where a man is liable to \$5,000 penalty or a year in jail for not carrying out one of these directives issued by the minister. But I say, with due deference to the legal gentlemen present, that you would never get a

conviction under this law for a breach of one of these directives, because the subsection is drafted to read:

Every person who violates the provisions of a regulation is guilty of an offence. . . .

Suppose he violates the provision of a regulation or an order or a directive of minister—something which is issued under his authority. It will not be a regulation under the Act. Therefore, they will have some legal status because they have this Act behind them, but they won't be regulations simply because they have this \$5,000 fine behind them.—A. Possibly I can illustrate in answer to the question. Regulation 30 deals with aircraft flying in clouds, and it says that every aircraft flying beneath clouds shall always do so, so far as it is practicable, at an actual distance below the clouds which will enable it readily to see and to be seen.

In an extension of that regulation the department found it had to issue an information circular defining what the distance below the clouds would be that the aircraft could fly. And it was set at 500 feet as a ceiling. So these directives will be mostly used in extension or explanation of the regulations. I think you are quite right in saying that only a breach of the regulations should involve a penalty.

Mr. MURRAY: On the northwest stage route we have many aircraft driven by private owners. They violate all the rules and very often they come to grief. And when they do that, not only do they crash up and lose their lives, but the R.C.A.F. has to spend thousands and thousands of dollars to try to find them. They will land on any old place that they decide to land, such as right in the middle of the Alaska Highway. I am thinking of those little Piper Cubs, those small aircraft going up to the Yukon and Alaska. They will refuse to check in at the required flying stations and they will violate every weather rule, and they are a law unto themselves. So I think that anything which will curb them or bring them under control will save many lives and save a great deal of money for the Canadian taxpayer.

Mr. ADAMSON: I do not know a great deal about the law but I have done a considerable amount of bush flying, and I have persuaded pilots of airplanes to land on lakes which they told me were prohibited and not suitable for landing. But they have done so and we managed to get away with it because it was a chartered airplane and perhaps I was taking a chance and the pilot was taking a chance as well. However, I feel that unless your information circular which goes out has the force of law, it is unlikely to be given as much attention as it should be given. But if it should have the force of law, then attention would be paid to it. I do not say that you would get a great deal more safety. In that respect, I think our safety record is astoundingly good, particularly in bush flights. But I do say this: you would have cases where a directive is published and the pilots, and owners of these aircraft, will not know about them, so that quite frequently a breach of the directives will be made unknowingly. I do not know whether that is good law or not, but I suggest that the wording be amended under "offence and penalty", and that after the word "who" in subsection 3—

The CHAIRMAN: Mr. Adamson, I am sorry, but we are out of order. We have a motion by Mr. Green.

Mr. ADAMSON: I suggest that it be amended, that the word "knowingly" be inserted after "who" so that paragraph would read "who knowingly violate the provisions", and I so move. I do not know whether that will help us at all.

The CHAIRMAN: Would you mind giving the clerk the wording of your amendment?

Mr. ADAMSON: Insert the word "knowingly" between "who" and "violates the provisions," and I so move, or instead of the word "knowingly" insert the word "wilfully."

Mr. CARROLL: There seems to be a misconception as to the powers of the minister under this thing. Now, the minister cannot of his own volition make a directive or anything else unless he complies with the regulation that will be made giving him that power and it has as much the force of law as anything you will find in the criminal law. So far as the nature of the penalty is concerned there used to be in the old days a method of graduating the penalties; that is for an offence under this subsection \$5,000, and less under another, and so on down, but I have noticed in the very late years that magistrates or whoever try those cases are advised by the lawyers who are prosecuting these cases that different offences require different penalties. Magistrates in this country, I think are generally now trained in the law. They are in a position to decide what the penalty should be. However, I know, myself, of some magistrates who want to give the greatest penalty for everything in the world, such as hanging a man for manslaughter, if they could do that. I do not think that the people who break the law in smaller offences are going to be given a \$5,000 penalty or a year in jail either; it will probably be of the order of \$25 or so and probably no jail sentence at all.

The CHAIRMAN: Mr. Adamson's proposed amendment was on section 7. We are dealing with section 6, and Mr. Green moved that the said bill be amended by deleting therefrom paragraph (6) of clause 3; that is on page 3 of the bill. Are you ready for Mr. Green's motion? All in favour? Opposed?

The motion is lost.

Do you care now, Mr. Adamson, to make the amendment to section (7)?

Mr. ADAMSON: I move, seconded by Mr. Green and by Mr. Applewhaite.

The CHAIRMAN: You do not need to have a seconder here.

Mr. ADAMSON: I would suggest that section (7) be amended by inserting the word "wilfully" in line 11 after the word "who", so that the section (3) will read:

"Every person who wilfully violates the provisions of a regulation,"
et cetera.

Hon. Mr. CHEVRIER: I would like to hear what counsel has to say on that. My impression is that if you put the word "knowingly" in there, you would never get a conviction.

The WITNESS: I would say the same thing about the word "wilfully". It is true in the criminal code it does occur in various places. If you put the word "wilfully" in there it just makes it that much harder to get a conviction because the magistrates may say that may involve intent or malice. I do not think it should be there at all. It is hard enough to get a conviction in some of these cases anyway without going into the question of intention and malice.

Mr. MURRAY: I was a witness to a very serious accident where the control tower notified some plane coming in to stay off the field for fifteen minutes until a certain transport landed; he did not do so and the result was he came down and crashed into the transport, killing a number of people. He was not wilful nor malicious, he did not do it for a profit or a gain, but he simply did it. I am not a lawyer, but that is the thing that I would be out to prevent.

The CHAIRMAN: I think that under the circumstances and the explanation given by Mr. Matthews—

Mr. ADAMSON: I am prepared to withdraw the motion. I only moved it just to see if we could come to some compromise.

The CHAIRMAN: Are you ready for clause 4?

Mr. GREEN: I would like to know why they are after that increase in the penalty from \$1,000 to \$5,000 and from six months to one year?

The CHAIRMAN: You are speaking now on section (7), (3), on page 3?

Mr. GREEN: Yes.

The WITNESS: That was inserted in order to harmonize with the other penalties which are put in the bill in connection with part 2. As we know, the value of the dollar has gone down. I think raising it to \$5,000 is not out of the way. That corresponds to the penalty in the American Civil Aeronautics Act and it is lower than the one in the United Kingdom Act. I think the penalty is fair, it is a pretty serious thing, you know, in an aircraft, if there is a breach of regulations. It is always serious because it involves a number of lives. I think the penalty should be stiff.

Mr. GREEN: If there is any criminality about it, they can be punished under the criminal code. Have you any cases which would lead you to believe that this penalty should be multiplied by five? The increased cost of living is not as high as that. And the time in jail may be doubled. Why is that? I think there must have been some experiences in the administrative work leading to this. It seems pretty drastic to me. Could I have an answer to that, Mr. Chairman?

The CHAIRMAN: Yes.

Hon. Mr. CHEVRIER: I would say this, I think that you can have no better example of the picture than that which was given by Mr. Carroll. After all, magistrates are people with common sense, as are judges of district and county courts. They do not impose maximum penalties for minimum or small offences. The officers of the Department of Transport, the officers of the board, the body in the other place have given this careful consideration and that is what they recommend. My officers think it should be \$5,000 and they have reasons why it should be, and I hope that the committee will approve.

Mr. GREEN: Have you had any cases in which you feel that people got off too lightly?

Mr. BALDWIN: Mr. Green, Mr. Matthews explained that in part it was considered necessary to have a serious deterrent because a breach of safety regulations may cause heavy damage and may require a heavy penalty. It is also to make it consistent with the penalty clauses in part 2 where \$5,000 has been and remains the maximum penalty that may be imposed. We have had penalties running as high as \$2,000 imposed under part 2.

Mr. GOODE: I would just like to ask a question in regard to a hypothetical case. Suppose that an R.C.A.F. pilot landed on a civilian airport. According to my knowledge of it he would be subject to civil law, is that true? I do not think he would be subject to K.R., Canada? I think perhaps he would, but I would not argue with the minister for a moment. I understand that civil law is senior to army law in all cases of that kind. Perhaps you could answer this: if an R.C.A.F. pilot wilfully landed on a civilian airport after doing things he should not have done and he was subject to this law, how would the fine be paid? Perhaps this is not a subject in relation to the Act but I think the answer would be interesting.

Hon. Mr. CHEVRIER: The answer to the second part is that if he landed at a civilian airport I do not think he would be subject to the regulations we are discussing now. With reference to the first part, my recollection of K.R. of Canada is perhaps as vague as that of any member here, but I would think that an R.C.A.F. pilot would be subject to K.R. Canada first and then the civilian law next. Now, my friend, shakes his head. I am not an authority on this; it is not a matter that concerns the department and perhaps I am entirely wrong; then my recollection of K.R. Canada is wrong.

Mr. GOODE: I do support this, but I am a little touchy perhaps on this matter. I think he would be subject to civilian law. As an old sergeant major perhaps you will take it from me that he would be. If that were so, then how would this money be collected, that is what I would like to know?

Hon. Mr. CHEVRIER: It has just been pointed out to me that these regulations do not apply to a military aircraft.

Mr. GOODE: Would you tell me this? If the R.C.A.F. plane lands on a civilian airport and causes damage, then I think he would come under civilian law. Would you agree with me on that?

The WITNESS: If there was some damage caused no doubt there would be a claim made against the Crown as these regulations do not apply to any military aircraft, so you could not discipline the R.C.A.F. pilot under these regulations.

Hon. Mr. CHEVRIER: It would not be dealt with under the Aeronautics Act at all.

The CHAIRMAN: Shall the section carry?

Carried.

Are you ready for clause 4 with its subsections?

4. (1) Section six of the said Act, as enacted by section six of chapter twenty-eight of the statutes of 1944-45, is amended by adding thereto, immediately after paragraph (d) thereof, the following paragraph:

(dd) "hire or reward" means any payment, consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected for the use of an aircraft by a person who, as owner, lessee, hirer, pilot or otherwise, has possession of or control over the aircraft or has directed the movement of the aircraft;

(2) The said section six of the said Act is further amended by adding thereto the following subsection:

(2) This Part does not apply to aircraft that are used by His Majesty's Forces or by any armed forces co-operating with His Majesty's Forces and bear the insignia or markings of His Majesty's Forces or any such forces.

Mr. GREEN: Could Mr. Baldwin or one of the officers explain what the doubts were that were expressed in recent court cases about the meaning of 'hire or reward'?

Mr. BALDWIN: The doubts expressed in the case were based on the fact that an operation could not be considered an operation for 'hire or reward' if it did not show a profit.

The CHAIRMAN: Shall clause 4 carry?

Carried.

Clause 5:

5. Subsections one and two of section seven A of the said Act, as enacted by section three of chapter nine of the statutes of 1945 (Second Session), are repealed and the following substituted therefor:

7A. (1) The Board shall have full jurisdiction to inquire into, hear and determine any matter

(a) where it appears to the Board that any person has failed to do any act, matter or thing required to be done by this Act or by any regulation, licence, permit, order or direction made thereunder by the Board, or that any person has done or is doing any act, matter or thing contrary to or in violation of this Part, or any such regulation, licence, permit, order or direction; or

(b) where it appears to the Board that the circumstances may require the Board, in the public interest, to make any order or give any direction, leave, sanction or approval which by law it is authorized to make or give, or with respect to any matter, act, or thing which by this Part or any such regulation, licence, permit, order or direction is prohibited, sanctioned or required to be done.

(2) The Board may order and require any person to do, forthwith, or within or at any specified time and in any manner prescribed by the Board so far as is not inconsistent with this Act, any act, matter or thing which such person is or may be required to do under this Part, or any regulation, licence, permit, order or direction made thereunder by the Board and may forbid the doing or continuing of any act, matter or thing which is contrary to this Part or any such regulation, licence, permit, order or direction and shall, for the purposes of this section, have full jurisdiction to hear and determine all matters, whether of law or fact.

Mr. GREEN: Could we have an explanation of clause 5?

Mr. BALDWIN: The present wording of the Act gives us jurisdiction to investigate and issue a corrective order only on receipt of a formal complaint. There are a great many cases where the matter is brought to the attention of the board indirectly or through its own officers. We would like to have the power to make such investigation on our own initiative.

Mr. ADAMSON: That might be complaints of low flying?

Mr. BALDWIN: No, this particular section refers to the powers of the Air Transport Board and it would apply to such matters, for example, as a representation that an aircraft or an operator was flying a commercial air service without having obtained a licence.

The CHAIRMAN: Clause 5?

Carried.

Clause 6, regulations?

6. (1) Paragraphs (cc) and (dd) of section eleven of the said Act, as enacted by section four of chapter nine of the statutes of 1945 (Second Session), are repealed and the following substituted therefor:

(cc) establishing classifications or groups of air carriers or commercial air services;

(dd) excluding from the operation of the whole or any part of this Part or any regulation, order or direction made or issued pursuant thereto, any air carrier or commercial air service or class or group of air carriers or commercial air services;

(2) Paragraph (g) of the said section eleven of the said Act, as enacted by section six of chapter twenty-eight of the statutes of 1944-45, is repealed and the following substituted therefor:

(g) respecting traffic, tolls and tariffs, and providing for the disallowance or suspension of any tariff or toll by the Board, the substitution of a tariff or toll satisfactory to the Board or the prescription by the Board of other tariffs or tolls in lieu of the tariffs or tolls so disallowed;

(gg) respecting the manner and extent to which any regulations with respect to traffic, tolls or tariffs shall apply to any air carrier licensed by the Board or to any person operating an international air service pursuant to any international agreement or convention relating to civil aviation to which Canada is a party;

Mr. GREEN: On clause 6, this new paragraph (dd) bothers me a bit. Apparently there is power being taken to exclude from the operation of the part any air carrier or commercial air service or class or group or air carriers

or air services. What is the reason for taking that, for providing that you can exempt groups like that from the control of the board?

Mr. BALDWIN: The only change that is proposed in the bill is to add the words commercial air services in place of air carriers because our regulations as they apply are in terms of services rather than air carriers. There is no change other than that; the power of exclusion was in previously.

The CHAIRMAN: Shall the section carry?

Mr. GREEN: And this paragraph (2) refers to tariffs and tolls of foreign aircraft.

The CHAIRMAN: Paragraph (2) on page 4?

Mr. GREEN: What is the present situation in regard to your control over these foreign tariffs?

Mr. BALDWIN: They file tariffs with us as do domestic carriers but there is some doubt in the minds of our legal officers as to whether our jurisdiction actually applies to international services, and paragraph (gg) is intended to clarify that jurisdiction by making it possible for us to state in our regulations that we may exercise jurisdiction over the rates of foreign carriers without any question of legality being raised.

The CHAIRMAN: Clause 6?

Carried.

We are now on clause 7:

7. (1) Subsection three A of section twelve of the said Act, as enacted by section seven of chapter nine of the statutes of 1945 (Second Session), is repealed and the following substituted therefor:

(3A) The Board may exempt from the operation of the whole or any part of subsection three, any air carrier or commercial air service or any class or group thereof, except a scheduled commercial air service operating wholly within Canada or the operator thereof, either generally or for a limited period or in respect of a limited area, if in the opinion of the Board such exemption is in the public interest.

(2) Subsection four of the said section twelve of the said Act, as enacted by section eight of chapter nine of the statutes of 1945 (Second Session), is repealed and the following substituted therefor:

(4) Notwithstanding the issue of a licence under subsection one, no air carrier shall operate a commercial air service unless he holds a valid and subsisting certificate issued to him by the Minister certifying that the holder is adequately equipped and able to conduct a safe operation as an air carrier over the prescribed route or in the prescribed area.

(3) Subsections five and six of the said section twelve of the said Act, as enacted by section six of chapter twenty-eight of the statutes of 1944-45, are repealed and the following substituted therefor:

(5) In issuing any licence, the Board may prescribe the routes which may be followed or the areas to be served and may attach to the licence such conditions as the Board may consider necessary or desirable in the public interest, and, without limiting the generality of the foregoing, the Board may impose conditions respecting schedules, places of call, carriage of passengers and freight, insurance, and, subject to the *Post Office Act*, the carriage of mail.

(6) The Board shall upon application grant to Trans-Canada Air Lines a licence to operate a commercial air service under such terms and subject to such conditions as will enable Trans-Canada Air Lines to perform any agreement made, under sections fifteen or twenty-five of The Trans-Canada

Air Lines Act, 1937, between the Minister of Transport and Trans-Canada Air Lines or between the Minister of Transport and any corporation created under section twenty of the said Act.

Mr. GREEN: On clause 7, there was one question raised in the House about which I would like to ask the minister.

This section 12 of the Act has a provision, subsection (2) which reads:

No such licence shall be issued in respect of a commercial air service, owned, leased, controlled or operated by any person who is engaged in the transport of goods or passengers for hire or reward by means other than aircraft unless the Governor in Council is of opinion that it is in the public interest that such licence be issued.

The side note says: "Not to be issued to persons engaged in other than aircraft transport." Now, when the section was originally passed in 1944 we were told that the reason it was done was because it was government policy that all railway companies and shipping companies had to get out of the air transport business. At that time the Canadian National was to be ordered to divest itself of its shares in the Trans-Canada Air Lines and the Canadian Pacific Railway was to get rid of Canadian Pacific Air Lines within a year. That was the reason that this subsection was put in the Act. Subsequently, some time later the government policy changed and, as you know, the Canadian National Railways still hold all the shares of Trans-Canada Air Lines and the Canadian Pacific Railway is still operating the Canadian Pacific Air Lines, so that I am wondering if there is any need of keeping that subsection in the Act. I never could see the point in it to say that a company or a person who was engaged in any kind of transport could not go into the aviation business, it did not make sense to me. It obviously did not make sense to the government either because they changed their policy about this restriction on a shipping company, for instance, having an aviation branch, or on a trucking company having an aviation branch. The minister said in the House we could discuss this when the bill got into committee. I would like to know whether there is any reason why that section should be retained in the Act?

Hon. Mr. CHEVRIER: I told Mr. Green when the matter came up in the House I had no views on it one way or the other, and that I had not given it any consideration. I have not given it any additional consideration since the time it was discussed, but I would like to hear what the Air Transport Board through its chairman has to say, and I suppose if there was to be any change I would want to discuss it a little further but, as I say, I have no views either one way or the other. Perhaps we could ask Mr. Baldwin.

Mr. BALDWIN: Mr. Green, I believe the original statutory restriction in this regard appears because it was felt that some such precaution was required to insure the fullest possible development of commercial aviation. The reason for that was that it might be possible for a surface carrier to acquire control of an air service which was competitive with it for the deliberate purpose of stifling the air service. That was the fundamental reasoning behind the original restriction, as I understand it, and I do not know that there is much more that I can offer in the way of explanation other than to say that there are alternative methods of taking care of that situation. One of them is the method which parliament took of writing this restriction into the Act leaving a way open for exceptions where no harm was going to result. Alternatively it could be dealt with through the control of licensing but it seems to me that the alternative selected is not a matter for the board to decide but for the government and parliament to decide upon.

Mr. GREEN: Have you come across any cases where a transport company went into an air operation on purpose to kill that air operation? I have never

heard of any such thing happening. I know the other side of the story is that people who are in the transportation business are in a better position to operate the new form of transportation than someone who is just a beginner and does not know anything about transportation business.

Mr. BALDWIN: It has not worked out in the fashion you indicated in Canada because of the existence of this statutory restriction. We cannot tell what would have happened had that restriction not been in effect.

Mr. MURRAY: You can see all around us what has happened in that commercial aviation has got along very well in this country. Canadian Pacific Air Lines is a most efficient organization, and the Trans-Canada Air Lines and these other private companies which have been operating in the west are also in that class.

Mr. GREEN: The Canadian Pacific Air Lines would not have been an efficient operation if the government had not changed its policy. If the government had carried out its policy of forcing the Canadian Pacific Railway to get rid of the Canadian Pacific Air Lines the Canadian Pacific Air Lines would not have been as efficient as it is today. So it cannot be claimed that their success is due to the policy set out in this section, it is in spite of the policy set out.

Mr. MURRAY: Yes, it is due very largely to the policy and initiative of the men at the head of Canadian Pacific Air Lines, and I might say that Mr. McConachie showed me a blueprint ten years ago outlining some of the things which were to be carried out and which have been carried out fully by the Canadian Pacific Air Lines, and whether it is in spite of it or because of it, we have a tremendous aviation industry in this country and we ought to see to its continued development.

The CHAIRMAN: Clause 7?

Carried.

Clause 8.

Carried.

Clause 9.

Carried.

Clause 10.

Carried.

Shall the preamble carry?

Carried.

Shall the title carry?

Carried.

Shall I report the bill?

Carried.

Hon. Mr. CHEVRIER: I may have created the impression this morning in answer to a question asked by Mr. Green that there was no policy on non-scheduled international services. The Chairman of the Air Transport Board advises me that a circular has been issued which is a sort of an interim policy. There is no definite, no fixed policy; this is an interim policy, and that circular is No. 15 which has been issued by the board. I have not got it with me.

Mr. GREEN: Could we get a copy?

Hon. Mr. CHEVRIER: Yes.

The CHAIRMAN: There is nothing before the chair, gentlemen.

The committee adjourned.